

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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STEVEN L. SPENCER,

Petitioner,

vs.

9:01-CV-0112

DOMINIC J. MANTELLO, Superintendent,  
Coxsackie Correctional Facility,

Respondent.

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Thomas J. McAvoy,  
Senior U.S. District Judge

**DECISION & ORDER**

This *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 was referred to the Hon. Victor E. Bianchini, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.4.

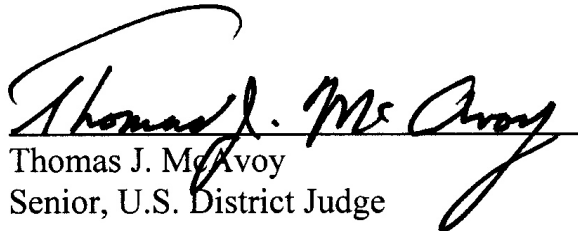
The Report-Recommendation dated January 16, 2007 recommends that the petition be denied and dismissed. No objections have been filed. After examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation and Order for the reasons stated therein. Further, inasmuch as the Petition presents no viable issues upon which reasonable jurists could debate whether: (a) the sentence was imposed in violation of the Constitution or laws of the United

States, or (b) the Court was without jurisdiction to impose such sentence, or (c) the sentence was in excess of the maximum authorized by law, or (d) the sentence is otherwise subject to collateral attack, a Certificate of Appealability pursuant to 28 U.S.C. § 2253 is **DENIED**. It is therefore

**ORDERED** that Petitioner's writ of habeas corpus is **DENIED** and **DISMISSED**.

**IT IS SO ORDERED.**

Dated: February 7, 2007

  
Thomas J. McAvoy  
Senior, U.S. District Judge